

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

TIMOTHY MARVIN FRICKS,	:	
	:	
Plaintiff	:	
	:	
VS.	:	NO. 5:10-CV-258 (CAR)
	:	
Warden STEVE UPTON, <i>et al.</i> ,	:	<b><u>RECOMMENDATION</u></b>
	:	
Defendants	:	

---

Plaintiff **TIMOTHY MARVIN FRICKS**, an inmate at Georgia Diagnostic and Classification Prison (“GD&CP”), has filed a motion for a preliminary injunction against officials at GD&CP and at Autry State Prison (“ASP”) where he was previously incarcerated. In his motion, he asks this Court to direct the GD&CP defendants to release plaintiff into the general population and to “quit harassing [him] without a just cause.” Plaintiff asks that the ASP defendants be restrained from “being around” plaintiff.

A preliminary injunction is appropriate where the movant demonstrates that: (a) there is a substantial likelihood of success on the merits; (b) the preliminary injunction is necessary to prevent irreparable injury; (c) the threatened injury outweighs the harm that a preliminary injunction would cause to the non-movant; and (d) the preliminary injunction would not be averse to the public interest. *Parker v. State Bd. of Pardons & Paroles*, 275 F.3d 1032, 1034-35 (11th Cir. 2001).

Plaintiff’s claims for injunctive relief against officials at ASP are now moot because plaintiff is no longer incarcerated at ASP. *See Zatler v. Wainwright*, 802 F.2d 397, 399 (11th Cir. 1986).

With respect to the GD&CP defendants, at this juncture, the facts have not been sufficiently developed to determine that there is a substantial likelihood that plaintiff will ultimately prevail on the merits of his claims. Moreover, the GD&CP defendants have not had an opportunity to respond to plaintiff’s allegations. Accordingly, **IT IS RECOMMENDED** that plaintiff’s motion for a preliminary injunction be **DENIED**.

Under 28 U.S.C. § 636(b)(1), **WITHIN FOURTEEN (14) DAYS** after being served a copy of this recommendation, plaintiff may serve and file written objections thereto directed to the district judge to whom this case is assigned,.

SO RECOMMENDED, this 21<sup>st</sup> day of SEPTEMBER, 2010.



A handwritten signature in blue ink, reading "Claude W. Hicks, Jr." The signature is stylized with a large, looped initial 'C' and a prominent 'H'.

CLAUDE W. HICKS, JR.  
UNITED STATES MAGISTRATE JUDGE